

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

LEONITUS JABIR BEY,
Plaintiff,

C.A. NO.: 19-10219- PBS

v.

DAVID PENDER,
Defendant

ANSWER AND JURY CLAIM

1. The defendant denies the allegations contained in the Complaint, and denies all of the allegations contained in all papers filed by the plaintiff including affidavits, witness statements and documents purporting to support federal jurisdiction.

AFFIRMATIVE DEFENSES

1. The Plaintiff's claims are barred by Heck v. Humphrey, 512 U.S. 477, 114 S. Ct. 2364 (1994)
2. The Plaintiff's claims are barred by judicial estoppel.
3. The complaint fails to state a claim upon which relief can be granted, as a result of which, this action should be dismissed with prejudice and with costs to the Defendant, specifically but not limited to the plaintiff's failure to assert a viable or plausible federal question, or claim of federal jurisdiction.
4. The Complaint must be dismissed for lack of subject matter jurisdiction.
5. The Plaintiff is estopped by his conduct from recovering on his claim.

6. The Defendant says that the injuries or damages alleged were caused in whole or in part by the Plaintiff's conduct.
7. The Defendant says that the injuries or damages alleged were caused in whole or in part by the violation by the Plaintiff of the various statutes, ordinances and regulations governing the conduct of the parties at the time said injuries or damages were sustained.
8. The Defendant is entitled to qualified immunity.
9. The Defendant says that the Plaintiff was rightly detained and that the detention was for a reasonable period of time.
10. The Defendant states that at all times relevant hereto he acted without malice toward the Plaintiff and that his actions relative to the Plaintiff were privileged by virtue of his acting reasonably and in good faith within the scope of their authority as a Police officer.
11. The Defendant has qualified immunity from this suit as the alleged acts complained of occurred within the scope of the Defendant's official duties and the Defendant has no knowledge that said alleged acts were illegal and/or unconstitutional nor were said alleged acts clearly violative of the Plaintiff's rights at the time that they were committed.
12. The Defendant says that when the Plaintiff was arrested there was probable cause for making the arrest and the Defendant was justified in so doing.
13. The Plaintiff has failed to state a cause of action under 42 U.S.C. section 1983 because the Plaintiff has suffered no deprivation of due process in that law affords the Plaintiff an adequate remedy.

JURY CLAIM

The Defendant Demands a jury trial.

The Defendant,

By his attorney,

/s/Bradford N. Louison

Bradford N. Louison, Esq. BBO#305755
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Louison, Costello, Condon & Pfaff, LLP
101 Summer Street
Boston, MA 02110
(617) 439-0305

Date: September 23, 2019

CERTIFICATE OF SERVICE

I hereby certify that on this day, I caused the foregoing to be served by first class mail to:

Leonitus Jabir Bey
P.O. Box 1934
Lowell, Mass 01854

/s/ Bradford N. Louison

Bradford N. Louison

Date: September 23, 2019